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EXAMINER

NGUYEN, TAN D

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Amendment

The amendment filed 4/19/06 has been entered. Claims 1-45 are pending and are rejected as followed. Claim 46 has been canceled.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Independent claims 1, 19 and 37 call for:

- * asking one or more questions regarding the preferences and dislikes of an individual accessing the private group website;

- * identifying one or more organizations engaged in fundraising based on answers from the individual to the one or more questions; and

- * soliciting a charitable donation from the individual for the one or more identified organizations.

It's not clear how questions regarding "dislikes" of an individual accessing the private group website would lead to identifying an organization and soliciting a charitable donation from the individual? If the individual dislikes organization A or the

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type of function/work carried out by organization A, why would one further solicit donation from the individual to organization A when the individual has said no.

Applicants have not shown how to carry out the last step with respect to the “dislikes” features cited above.

Claim Rejections - 35 USC § 112

2. Claims 1-18, 19-36, and 37-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(1) In claims 1, 19, the phrase “a patient, friends and/or family” is vague and indefinite because the terms “friends and/or family” are relative terms and can not stand on their own, friends and/or family of whom? Insertion of “of the patient” after “family” is recommended to improve clarity.

(2) it's not clear the relationship of the entity “participants” to the previous 3 entities, “a patient, friends and/or family”.

(3) In claim 45, it's not clear the relationship of the entity “individual” to the previous 3 entities, “a patient, a friend of the patient and a member of the patient's family”.

(4) Claim 37, the preamble calls for “a method of soliciting donation for an organization engaged in fundraising from at least 1 of {a patient, a friend of the patient, and a member of the patient's family}, but there is no discussion of how to carry out the goal of the preamble in the body of the claim. The last step calls for “soliciting a charitable donation from the individual” and there is no discussion of the relationship of

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the individual to at least 1 of {a patient, a friend of the patient, and a member of the patient's family}.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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6. Claims 37-45 (method¹), 1-18 (method²), 19-36 (apparatus¹) are rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Applicant Admitted Prior Art (or AAPA) in view of (2) RUSSELL et al (US 2002/0178079) or vice versa, and further in view of (3) SANDGREN et al and (4) iGive.com (Oct. 19, 2000).

As for Independent method¹ claim 37, AAPA, as shown on page 2, line 23 to page 3, line 6, discloses a well known relationship between (1) a person being treated or receiving care or treatment (patient), (2) his friends or family and (3) the charitable organization and method of for fundraising for the organization from a friend of the patient (at least 1 of), comprising the steps of:

(a) providing opportunity and place for the patient being treated in a healthcare facility, i.e. hospital, for some disease, i.e. cancer, patients and friends/family to communicate with one another (by personal visits or phone calls) {page 1, lines 22-23},

* patient's family or friends take more personal interest in the patient's disease with the hope of finding a cure for cancer for the loved one {page 2, lines 26-28},

* patient and patient's friends learn more about cancer treatment and any ongoing research to find cures for cancer,

* support facilities that provide cancer treatment and support research to find cures for the disease, identify at least one organization engaged in fundraising to provide cancer treatment and support research to find cures for cancer {page 2, lines 29-31}, and

* make donations to charitable, non-profit and other organizations that provide such treatment and support such research and development {page 2, lines 29-31}.

Therefore, AAPA fairly teaches the claimed invention except for:

carrying out step (a) using a private group website;

(b) asking one or more questions regarding the preferences and dislikes of an individual accessing the private group website;

(c.) identifying one or more organizations engaged in fundraising based on answers from the individual to the one or more questions; and

(d) soliciting a charitable donation from the individual for the one or more identified organizations.

In a similar method for soliciting a charitable donation for an organization engaged in fundraising from at least one of (1) a deceased person, (2) a family or friend of the person, and (3) the organization and method of for fundraising for the organization from at least 1 of a friend of the patient {see [0169]}, **RUSSEL et al** teaches the method comprising the steps of:

(a) provide an access to a website allowing the (1) patient, (2) patient's friend or family to communicate with one another {see [0107 or 0230 "one destination to efficiently plan, create, store, update and implement specific information for coordinating mourners and communities ... one-stop Internet site, www.VIPtribute.com, or www.Metribute.com, and other activities, messages, gathering information into a single one-stop web site that offers a more convenient forum"} , [0231 "information, wishes, donations"], [0233 "free threaded discussion, free chat area "], [0104 "questions and answer"], [0132 "arrangement dates and times"], Fig. 11, see under "creative interaction", or Fig. 10 see "Bulletin Board Posting (BBS)". Clearly, **RUSSEL et al**

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discloses or recommends the communication with one another which includes question and answer regarding preferences and dislikes of the individual accessing the website. Alternatively, it would have been obvious to a person of ordinary skill to modify the process of RUSSEL et al by communication through asking and answering questions regarding preferences and dislikes of the individual accessing the website. It would have been obvious to modify the process of AAPA by including steps (a) and (b) as taught by RUSSEL et al to obtain well known benefits of the Internet (vs. conventional telephone) which is more efficient ways to communicate and access information such as availability and cost, see also [0007] of RUSSEL et al.

Vice versa, it would have been obvious to modify the teaching of RUSSEL et al by selecting other type of person, such as person being treated or cared for (patient) as shown in AAPA and overcoming all of the shortage dealing with telephone for communication between parties and gathering information. As for the "planning" for visitation and dealing with the personal information with respect to the person being treated, these are nearly similar with visitation hours or cause of sickness. Moreover, the difference in the type of treated person, patient vs. deceased, is not critical and would have been obvious to a skilled artisan, since the focus is on improving communication between the person and his family or his friend.

The teaching of RUSSEL et al /AAPA fairly discloses the claimed invention except for the type of website (a), being a private group type and

(b) asking one or more questions regarding the preferences and dislikes of an individual accessing the private group website;

(c) identifying one or more organizations engaged in fundraising based on answers from the individual to the one or more questions; and

(d) soliciting a charitable donation from the individual for the one or more identified organizations.

SANDGREN et al is cited to teach a method and system for providing a secure online communications between registered participants such as a private group website accessible to members only or interactive family communication comprising one or more message boards having information about a particular subject (a particular person) and messages from friends, family and the desired person (see col. 1, lines 5-10, col. 2, lines 47-57, col. 4, lines 15-25, col. 5, lines 12-20, Fig. 3). It would have been obvious to modify the method and system of AAPA/RUSSELL et al or RUSSEL et al /AAPA by including a message board as taught by SANDGREN et al to provide more (1) secure or private communication and/or (2) interactive communications between family or group members which inherently improves the sense of community support for the patient.

In a similar method for soliciting a charitable donation for an organization engaged in fundraising, **iGive.com** teaches:

(a) providing access to a website (iGive.com):

(b) asking the potential donor accessing the website information regarding his/her preferences activities/organization for giving/donating {see "My Cause"/"Our Causes"} of an individual (potential donor) accessing the website {see page 4, "Causes

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Close to Heart and Home”, “Add your favorite cause to our list”, “Add a new cause” or “You can list ANY cause, large or small” on page 5;

(c.) identifying one or more organizations engaged in fundraising based on answers from the individual (potential donor) to the one or more questions {see pages 6-7, 10}; and

(d) soliciting a charitable donation from the individual (potential donor) for the one or more identified organizations {see page 7, 10}.

Note that on page 2/12, iGive.com shows its goal/mission: “to enable the economic power of individuals to benefit their chosen communities”.

As for the different types/features of formats for collecting/obtaining information of the potential donor’s preferences, i.e. question regarding the potential donor’s preferences, or provide an option/space for the potential donor to “list your preferences or “My cause”/“Our cause”, the different formats are not critical and would have been obvious to select any format as long as they both achieve the same result which is obtaining the potential donor’s preferences. As for the limitation of “dislikes”, the use of other similar or opposite term to “preferences” to indicate/show individual taste/preference would have been obvious to a skilled artisan as mere selection of other similar term to achieve similar results. Therefore, it would have been obvious to modify the teachings of AAPA / RUSSELL et al / SANDGREN et al by including steps (b)-(d) as taught by iGive.com to achieve the goal of helping the individual to select his/her own chosen organization, thus benefiting his/her own chosen communities.

As for dep. claim 38 (part of 37), which deals with well known individual preference data parameters, i.e. type of information and is related to the patient's illness and/or treatment, this is fairly taught in AAPA page 2, 3rd full paragraph or RUSSEL et al [0169].

As for dep. claims 39-40 (part of 37), which deals with the message board parameters, i.e. plurality of boards designated for different classes of users, these are immaterial modification in view of the scope of the invention, and are fairly taught in SANDGREN et al col. 4, lines 25-40. Moreover, merely duplication of parts (plurality) for multiple effects type of question is well known and would have been obvious to a skilled artisan. See In re Hazra, 124 UQ 378.

As for dep. claim 41 (part of 37), which deals with well known charitable organization parameters, i.e. type of charitable organization, this is immaterial modification in view of the claimed scope, and is taught in AAPA page 2 or RUSSEL et al [0169].

As for dep. claim 42 (part of 37), which deals with the website parameter, i.e. includes visitation calendar, this is immaterial modification in view of the scope of the claim, and is taught in RUSSEL et al [0132 "arrangement dates and times", 0021 "coordination" and "planning ahead"]. See also Fig. 3 of SANDGREN et al for "calendar".

As for dep. claim 43 (part of 37), which deals with an editing feature of the website, i.e. updating the schedule, this feature is mentioned in RUSSEL et al [0236] as

part of the planning and gathering information. This is also inherently included in the teaching of SANDGREN et al as shown in Fig. 3.

As for dep. claims 44-45 (part of 37), which deals with receiving a pledge and payment for a charity donation, these are fairly taught in AAPA pages 2, 3rd paragraph to page 3, 1st paragraph or in RUSSEL et al [0169].

As for the other similar independent method² claim 1 and apparatus¹ claim 19 which basically provide the means for carrying out Independent Method² claim 1, they are rejected for the same rejection as shown in Independent Method¹ claim 37 above. Alternatively, the setting up of a equivalent apparatus sufficient to carry out a method claim is within the skill of the artisan and would have been obvious.

As for dep. claims 2-4 (part of 1) and **dep. claims 20-22** (part of 19), they have similar limitation as in dep. claim 41 above, and are therefore rejected for the same reason set forth in dep. claim 41 above. Note, that the selection of other similar type of charitable organization, such as non-profit or hospital, would have been obvious to a skilled artisan as mere selection of other similar organization to achieve similar results, absent evidence of unexpected results.

As for dep. claims 5-7, 9-15 (part of 1) and **dep. claims 23-25, 27-33** (part of 19), they have similar limitation as in dep. claims 39-40 above, and are therefore rejected for the same reason set forth in dep. claims 39-40 above.

As for dep. claim 8 (part of 1) and **dep. claim 26** (part of 19), this is shown in SANDGREN et al col. 2, lines 10-15, or col. 5, lines 15-25.

As for dep. claims 16-18 (part of 1) and dep. claims 34-36 (part of 19), they have similar limitation as in dep. claims 43-45 respectively above, and are therefore rejected for the same reason set forth in dep. claims 43-45 above.

7. Claims 37-45, 1-18, and 19-36 are rejected (2nd time) under 35 U.S.C. 103(a) as being unpatentable over (1) RUSSELL et al in view of (2) SANDGREN et al and/or (3) iGive.com (Oct. 19, 2000).

As for Independent method¹ claim 37, in a similar method for soliciting a charitable donation for an organization engaged in fundraising from at least one of (1) a deceased person, (2) a family or friend of the person, and (3) the organization and method of for fundraising for the organization from at least 1 of a friend of the patient {see [0169]}, **RUSSEL et al teaches the method comprising the steps of:**

(a) provide an access to a website allowing the (1) patient, (2) patient's friend or family to communicate with one another {see [0107 or 0230 "one destination to efficiently plan, create, store, update and implement specific information for coordinating mourners and communities ...one-stop Internet site, www.VIPtribute.com, or www.Mettribute.com, and other activities, messages, gathering information into a single one-stop web site that offers a more convenient forum"}, [0231 "information, wishes, donations"], [0233 "free threaded discussion, free chat area "], [0104 "questions and answer"], [0132 "arrangement dates and times"], Fig. 11, see under "creative interaction", or Fig. 10 see "Bulletin Board Posting (BBS)". Clearly, RUSSEL et al discloses or recommends the communication with one another which includes question and answer regarding preferences and dislikes of the individual accessing the website.

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Alternatively, it would have been obvious to a person of ordinary skill to modify the process of RUSSEL et al by communication through asking and answering questions regarding preferences and dislikes of the individual accessing the website.

SANDGREN et al is cited to teach a method and system for providing a secure online communications between registered participants such as a private group website accessible to members only or interactive family communication comprising one or more message boards having information about a particular subject (a particular person) and messages from friends, family and the desired person for the benefits of more (1) secure or private communication and/or (2) interactive communications between family or group members (see col. 1, lines 5-10, col. 2, lines 47-57, col. 4, lines 15-25, col. 5, lines 12-20, Fig. 3). It would have been obvious to modify the method and system of RUSSELL et al by including a message board as taught by SANDGREN et al for at least one of the benefits cited above.

In a similar method for soliciting a charitable donation for an organization engaged in fundraising, **iGive.com** teaches:

(a) providing access to a website (iGive.com):

(b) asking the potential donor accessing the website information regarding his/her preferences activities/organization for giving/donating {see "My Cause"/"Our Causes"} of an individual (potential donor) accessing the website {see page 4, "Causes Close to Heart and Home", "Add your favorite cause to our list", "Add a new cause" or "You can list ANY cause, large or small" on page 5;

(c.) identifying one or more organizations engaged in fundraising based on answers from the individual (potential donor) to the one or more questions {see pages 6-7, 10}; and

(d) soliciting a charitable donation from the individual (potential donor) for the one or more identified organizations {see page 7, 10}.

Note that on page 2/12, iGive.com shows its goal/mission: "to enable the economic power of individuals to benefit their chosen communities".

As for the different types/features of formats for collecting/obtaining information of the potential donor's preferences, i.e. question regarding the potential donor's preferences, or provide an option/space for the potential donor to "list your preferences or "My cause"/"Our cause", the different formats are not critical and would have been obvious to select any format as long as they both achieve the same result which is obtaining the potential donor's preferences. As for the limitation of "dislikes", the use of other similar or opposite term to "preferences" to indicate/show individual taste/preference would have been obvious to a skilled artisan as mere selection of other similar term to achieve similar results. Therefore, it would have been obvious to modify the teachings of RUSSELL et al / SANDGREN et al by including steps (b)-(d) as taught by iGive.com to achieve the goal of helping the individual to select his/her own chosen organization, thus benefiting his/her own chosen communities.

As for dep. claim 38 (part of 37), which deals with well known individual preference data parameters, i.e. type of information and is related to the patient's illness and/or treatment, this is fairly taught in RUSSEL et al [0169].

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As for dep. claim 42 (part of 37), which deals with the website parameter, i.e. includes visitation calendar, this is immaterial modification in view of the scope of the claim, and is taught in RUSSEL et al [0132 "arrangement dates and times", 0021 "coordination" and "planning ahead"]. See also Fig. 3 of SANDGREN et al for "calendar".

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As for the other similar independent method² claim 1 and apparatus¹ claim 19 which basically provide the means for carrying out Independent Method² claim 1,

they are rejected for the same rejection as shown in Independent Method¹ claim 37 above. Alternatively, the setting up of a equivalent apparatus sufficient to carry out a method claim is within the skill of the artisan and would have been obvious.

As for dep. claims 2-4 (part of 1) and dep. claims 20-22 (part of 19), they have similar limitation as in dep. claim 41 above, and are therefore rejected for the same reason set forth in dep. claim 41 above. Note, that the selection of other similar type of charitable organization, such as non-profit or hospital, would have been obvious to a skilled artisan as mere selection of other similar organization to achieve similar results, absent evidence of unexpected results.

As for dep. claims 5-7, 9-15 (part of 1) and dep. claims 23-25, 27-33 (part of 19), they have similar limitation as in dep. claims 39-40 above, and are therefore rejected for the same reason set forth in dep. claims 39-40 above.

As for dep. claim 8 (part of 1) and dep. claim 26 (part of 19), this is shown in SANDGREN et al col. 2, lines 10-15, or col. 5, lines 15-25.

As for dep. claims 16-18 (part of 1) and dep. claims 34-36 (part of 19), they have similar limitation as in dep. claims 43-45 respectively above, and are therefore rejected for the same reason set forth in dep. claims 43-45 above.

Responses to Arguments

8. Applicant's arguments filed 4/19/06 with respect to the 101 rejections and 103 rejections (AAPA /Russell et al/Hodges/Sandgren et al) in the previous office action of were persuasive and the rejections have been withdrawn.

However, Applicant's comment that the Examiner has mischaracterized the Background of the Invention section of the present application is noted and this is not found persuasive because the examiner merely uses it to disclose well known facts in the preamble and a few steps in the body of the claim but not the solutions to the recognized problem by the applicants. See par. No. 14, above. "Therefore, AAPA fairly teaches the claimed invention (last 2 steps) except for:

(a) provide an access to a private group website allowing the (1) patient, (2) patient's friend or family to communicate with one another, and

(b) asking one or more questions, via the private group website, regarding the preferences and dislikes of an individual accessing the website". Note also that this well known teachings are also cited in RUSSELL et al above.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

I. NPL.

1) **“Tis the Season to JustGive.org” or “JustGive.org”** is cited to show well known website for providing a database of charities with profiles and database of donors with wish list and matching the donor and the donee. Note, that it has ability to **link to online charity shopping** such as RUSSELL et al and serve as a 3r party to provide service to donors and donees. It's cited here for applicant's awareness of potential use in the future if needed, thus minimizing duplicate rejections of claims in the current rejections.

2) **NetworkforGodd.org** is also cited to show well known website for providing a database of charities with profiles and database of donors with wish list and matching the donor and the donee.

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11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail CustomerService3600@uspto.gov.

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss can be reached at (571) 272-6812.

The main FAX phone numbers for formal communications concerning this application are (571) 273-8300. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn
July 4, 2006


DEAN T. NGUYEN
PRIMARY EXAMINER